IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

FOREST LABORATORIES, LLC, FOREST LABORATORIES HOLDINGS, LTD., CEREXA, INC., TAKEDA PHARMACEUTICAL COMPANY LIMITED, and ALLERGAN USA, INC., Plaintiffs, v. APOTEX CORP. and APOTEX INC., Defendants.	C.A. No. 15-018 (GMS) **CONSOLIDATED**
FOREST LABORATORIES, LLC, FOREST LABORATORIES HOLDINGS, LTD., CEREXA, INC., TAKEDA PHARMACEUTICAL COMPANY LIMITED, and ALLERGAN USA, INC., Plaintiffs, v. APOTEX CORP. and APOTEX INC., Defendants.	C.A. No. 16-269 (GMS)

STIPULATION AND ORDER

The Court, upon the consent and request of Plaintiffs Forest Laboratories, LLC, Forest Laboratories Holdings, Ltd., Cerexa, Inc., Takeda Pharmaceutical Company Limited, and Allergan USA, Inc. (collectively, "Plaintiffs") and Defendants Apotex Corp. and Apotex Inc. (collectively, "Apotex"), hereby acknowledges the following Stipulation and issues the following Order.

STIPULATION

1. This Court has subject matter jurisdiction over the above-captioned, consolidated patent infringement actions (the "Actions") and personal jurisdiction over Plaintiffs and Apotex for purposes of the Actions. Venue is proper in this Court as to Plaintiffs and Apotex for the Actions.

2. In the Actions, Plaintiffs have asserted claims against Apotex for infringement of U.S. Patent Nos. 6,417,175 ("the '175 Patent") and 8,247,400 ("the '400 Patent") in connection with Apotex's submission of Abbreviated New Drug Application ("ANDA") No. 208075 directed to generic vials containing 400 mg per vial or 600 mg per vial of ceftaroline fosamil powder for intravenous infusion to the U.S. Food and Drug Administration ("FDA"). Apotex has denied the allegations.

3. To date, no decision has been obtained in the Actions regarding Plaintiffs' claims of infringement, the validity of the '175 Patent or the '400 Patent, and/or whether any commercial making, using, selling, or offering to sell within the United States, or importing into the United States, of the generic products described by ANDA No. 208075 would infringe those patents.

4. Apotex admits that the submission of ANDA No. 208075 to the FDA for the purpose of obtaining regulatory approval to engage in the commercial manufacture, use, and/or sale of the generic ceftaroline fosamil products described therein within the United States before the expiration of the '175 Patent and the '400 Patent was a technical act of infringement of each of those patents under 35 U.S.C. § 271(e)(2)(A). This admission is without prejudice to any claim, defense, or counterclaim in any possible future action between Apotex and any of the Plaintiffs regarding the '175 Patent and/or the '400 Patent and a generic product other than the generic products described by ANDA No. 208075.

5. Both parties agree that all other claims, defenses, and counterclaims set forth in the pleadings in the Actions, including the allegations and averments contained therein, should be dismissed, without prejudice.

ORDER

Accordingly, pursuant to the above Stipulation, and upon the consent and request of Plaintiffs and Apotex, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. The filing of ANDA No. 208075 was a technical act of infringement of the '175 Patent and the '400 Patent under 35 U.S.C. § 271(e)(2)(A). No decision in the Actions has been obtained by either party regarding the validity of the '175 Patent and the '400 Patent and/or whether any commercial making, using, selling, or offering to sell within the United States, or importing into the United States, of the generic products described by ANDA No. 208075 would infringe those patents.

2. All other claims, defenses, and counterclaims set forth in the pleadings in the Actions, including the allegations and averments contained therein, are hereby dismissed, without prejudice.

3. Apotex, its officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, are hereby enjoined from commercially manufacturing, using, offering to sell, or selling within the United States, or importing into the United States, the generic ceftaroline fosamil products described by ANDA No. 208075 during the life of the '175 Patent and the '400 Patent, including any extensions and pediatric exclusivities, absent a license agreement or other authorization by Plaintiffs or otherwise exempt from infringement under 35 U.S.C. § 271(e)(1), unless all of the claims of the '175 Patent, the '400 Patent, U.S. Patent No.

6,906,055 and U.S. Patent No. 7,419,973 are found invalid, not infringed, or unenforceable by a court decision from which no appeal has been or can be taken, other than a petition for a writ of certiorari to the U.S. Supreme Court.

4. Plaintiffs and Apotex each expressly waive any right to appeal or otherwise move for relief from this Stipulation And Order.

5. This Court retains jurisdiction over Plaintiffs and Apotex for purposes of enforcing this Stipulation And Order.

6. This Stipulation And Order shall finally resolve the Actions.

7. This Stipulation And Order is without prejudice to any claim, defense, or counterclaim in any possible future action between Apotex and any of the Plaintiffs regarding the '175 Patent and/or the '400 Patent and a product other than the generic products described by ANDA No. 208075.

8. The Clerk of the Court is directed to enter this Stipulation And Order forthwith in both of the Actions.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

/s/ Jack B. Blumenfeld
Jack B. Blumenfeld (#1014)
Maryellen Noreika (#3208)
1201 North Market Street
P.O. Box 1347
Wilmington, DE 19899
(302) 658-9200
jblumenfeld@mnat.com
mnoreika@mnat.com

Attorneys for Plaintiffs

MORRIS JAMES LLP

/s/ Kenneth L. Dorsney
Kenneth L. Dorsney (#3726)
500 Delaware Avenue
Suite 1500
Wilmington, DE 19801
kdorsney@morrisjames.com
(302) 888-6800

Attorneys for Defendants Apotex Corp. and Apotex, Inc.

SO ORDERED this 17th day of January 2017

J.